

Article - Business Regulation

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§17-20A-04.

(a) (1) Subject to the hearing provisions of subsection (b) of this section, if a transient vendor conducting business in the State fails to display a valid transient vendor's license, the Comptroller may order an immediate stop sale until a transient vendor's license is obtained or may order a law enforcement officer to seize the goods that the transient vendor is offering or has offered for sale.

(2) Subject to the hearing provisions of subsection (b) of this section, if a transient vendor sells or offers to sell goods in the State without stating and charging the sales and use tax separately from the sale price as required under Title 11 of the Tax - General Article, the transient vendor's license is void and shall be seized by the law enforcement officer and returned to the Comptroller, and the provisions of paragraph (1) of this subsection apply.

(b) (1) The Comptroller may order summarily a stop sale or a seizure of the transient vendor's goods or license if the Comptroller:

(i) finds that the public health, safety, or welfare requires emergency action; and

(ii) promptly gives the licensee:

1. written notice of the stop sale or seizure, the finding, and the reasons that support the finding; and

2. an opportunity to be heard.

(2) (i) If the Comptroller finds that emergency action is not necessary under paragraph (1) of this subsection, before the Comptroller takes any final action under subsection (a) of this section, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(ii) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Comptroller may administer oaths in a proceeding under this subsection.

(iv) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

(c) (1) All property seized by a law enforcement officer under this section shall be deemed prima facie to be contraband of law.

(2) All rights, title, and interest in the property seized shall vest immediately in and to the local government, if seized by a law enforcement official of a local government, or to the State, if seized by State authorities, and may not be returned to the vendor or any other person, except as provided in this section.

(d) (1) If the ultimate disposition of charges, in connection with which the property may have been seized, results in a record of conviction being entered against the vendor, the State Treasurer or the fiscal officer of the local government, within 90 days from the date of the record of the entry of conviction, unless the case is appealed, shall apply to the District Court or circuit court of the county for an order declaring and ordering that the property be forfeited to the sole use of the State or local government.

(2) Before the court to which an application is directed shall proceed to order a forfeiture of the property to the State or local government, the court shall establish to its satisfaction that there is no pending and undetermined suit or proceeding that has been filed in a court of competent jurisdiction against the State or the local government seeking a return or recovery of the property held in custody.

(3) All applications for the forfeiture of contraband shall be by petition.

(4) A copy of the petition and show cause order shall be served in the first instance in accordance with the Maryland Rules.

(e) (1) On disposition of a charge resulting in acquittal, dismissal, a stet, a nolle prosequi, or probation under § 6-220 of the Criminal Procedure Article, a vendor claiming that the seized property is not contraband of law under subsection (c) of this section and should be returned to the vendor may apply, within 1 year after the date the judgment or order was entered or the action was taken that constituted the disposition and on giving 10 days' prior written notice to the State Treasurer or appropriate local fiscal officer, to the appropriate court for a determination that the property is the property of the claimant and for an order that it be returned.

(2) In a proceeding on that application, an acquittal, dismissal, or nolle prosequi with respect to any indictment involved in the seizure of the property is prima facie evidence that the property is not contraband.

(3) A conviction, plea of guilty or of nolo contendere, or probation under the provisions of § 6-220 of the Criminal Procedure Article is prima facie evidence that the property is contraband.

(4) No presumption in the proceeding shall attach to an entry of stet.

(5) If a petition is not timely and properly filed, or if it is finally decided against the claimant, the seized property shall be forfeited to the custodian without further judicial action.

(6) Timely notice shall be given by certified mail or other appropriate means to any known claimants, at their last known address, of the requirements of this section for making claim for the return of the seized property or the seized property may not be forfeited as provided in paragraph (5) of this subsection.

(f) The provisions of this section shall be enforced by any State or local law enforcement officer.

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